

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Jarrett Bradley, an individual;)	HPA Docket No. 17-0120
Joe Fleming, an individual doing business)	HPA Docket No. 17-0123
as Joe Fleming Stables;)	
Sam Perkins, an individual;)	HPA Docket No. 17-0128
)	
Respondents.)	

Remand Order Entered by John Walk, Judicial Officer

**ORDER REMANDING CASES TO THE CHIEF ADMINISTRATIVE LAW JUDGE
FOR FURTHER PROCEEDING**

Preliminary Statement

This is a disciplinary administrative proceeding under the Horse Protection Act of 1970, as amended (15 U.S.C. §§ 1821 *et seq.*) (“Horse Protection Act”); the regulations issued pursuant to the Horse Protection Act (9 C.F.R. pt. 11) (“Regulations”); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (“Rules of Practice”). On January 11, 2017, Kevin Shea, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (“Complainant”) instituted this Proceeding by filing a Complaint alleging that Respondents Jarrett Bradley, Joe Fleming dba Joe Fleming Stables, and Sam Perkins violated the Horse Protection Act.

None of the three Respondents filed an Answer in response to the Complaint within the time required by the Rules of Practice. On April 11, 2017, then Chief Administrative Law Judge Bobbie J. McCartney filed default decisions and orders against Respondents Jarrett Bradley, Joe

Fleming dba Joe Fleming Stables, and Sam Perkins. On May 10, 2017, the three Respondents appealed to the Judicial Officer. The then Judicial Officer William G. Jenson affirmed the default decisions and orders.

The three Respondents each filed a Petition for Review of the agency decisions and orders in the United States Court of Appeals for the District of Columbia Circuit. *See Fleming v. United States Department of Agriculture*, 987 F.3d 1093 (D.C. Cir. 2021), *reh'g en banc denied*, No. 17-1246 (D.C. Cir. Apr. 13, 2021) (*per curiam*). The D.C. Circuit Court of Appeals found that after the petitions for review were filed, the Supreme Court decided the case of *Lucia v. SEC*, 138 S. Ct. 2044 (2018), “holding that the SEC’s administrative law judges (ALJs) had not been appointed in compliance with the Appointments Clause, U.S. Const. art. II, § 2, cl. 2.” The D.C. Circuit Court of Appeals also noted that the government acknowledged that the presiding Administrative Law Judge (“ALJ”) in this Proceeding was improperly appointed and moved for remand and vacatur to allow new proceedings before properly appointed ALJs. On February 16, 2021, the D.C. Circuit Court of Appeals granted the petitions for review, vacated the underlying agency decisions and orders, and remanded the cases to USDA for new administrative hearings for Respondents Jarrett Bradley, Joe Fleming dba Joe Fleming Stables, and Sam Perkins before validly appointed ALJs. The D.C. Circuit Court of Appeals issued its mandate on April 21, 2021.

On May 12, 2021, Complainant filed Notice to the Court Re: Remand of Decisions Against Certain Respondents and Request for Recaptioning of Case, advising that Complainant is reviewing options for moving the case forward and making a request to recaption the case to list only the three Respondents whose default decisions and orders were remanded.

ORDER

The cases as to Jarrett Bradley, Joe Fleming dba Joe Fleming Stables, and Sam Perkins are hereby remanded to Chief Administrative Law Judge Channing D. Strother for proceedings consistent with the February 16, 2021, Order of the D.C. Circuit Court of Appeals.

Complainant's request for recaptioning is GRANTED.

Done at Washington, D.C.,
this 11th day of June 2021

**JOHN
WALK** Digitally signed
by JOHN WALK
Date: 2021.06.11
14:31:48 -04'00'

John Walk
Judicial Officer

Hearing Clerk's Office
United States Department of Agriculture
South Building, Room 1031
1400 Independence Avenue, SW
Washington, DC 20250-9203
Tel.: 202-720-4443
Fax: 844-325-6940
SM.OHA.HearingClerks@USDA.GOV